

Item SPR05-42 Response Form

Title: Probate Guardianships and Conservatorships: Guardian and Conservator Screening Forms (revise forms GC-212 and GC-314)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2005

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action..*

Invitation to Comment (SPR05-42)

Title	Probate Guardianships and Conservatorships: Guardian and Conservator Screening Forms (revise forms GC-212 and GC-314)
Summary	The confidential screening forms that must be completed, signed, and submitted to the court by proposed guardians or conservators would be updated to inquire into the prospective fiduciary's status as a private professional guardian or conservator or a qualified nonprofit corporation. The conservatorship screening form would also be revised to inquire into a proposed conservator's relationship as a domestic partner or former domestic partner of the proposed conservatee.
Source	Probate and Mental Health Advisory Committee, the Hon. Don Edward Green, Chair
Staff	Douglas C. Miller, Committee Counsel, 415-865-7535, douglas.miller@jud.ca.gov
Discussion	<p>A guardian or conservator classified under the law as a private professional must, unless exempt from one or both requirements, file an annual information statement with each appointing court and register with the California Department of Justice. A proposed guardian or conservator who is required but fails to file the statement or maintain current registration is ineligible for appointment or, if appointed, must be removed.¹ A proposed conservator's status as a current or former domestic partner of the proposed conservatee—and if a current partner, his or her intention to remain in or terminate the partnership—may affect his or her eligibility for appointment as conservator.²</p> <p>The screening forms that must be completed by persons who are proposed for appointment as guardians or conservators, forms GC-212 and GC-314, respectively, do not currently inquire whether a candidate is a private professional guardian or conservator and if so, whether he or she is exempt from the requirements or has complied with them. Form GC-314 does not ask about a proposed conservator's current or former domestic partnership with the proposed conservatee.</p>

¹ Probate Code sections 2340(a) (information statement) and 2851(a) and (b) (registration with the Department of Justice).

² See Probate Code section 1813.1(a)(1).

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Form GC-212 would be revised by adding a new item 16 on page 2 to ask if a proposed guardian is a private professional guardian as defined in Probate Code section 2341, and if so, whether he or she has filed an information statement with the court. Item 17 would inquire if the proposed guardian is currently registered with the Department of Justice, and ask for the expiration date of the current registration. Item 17 would also request an unregistered proposed guardian to explain why he or she is not registered.

Proposed guardians who are not required to register because they are not private professional guardians as defined in Probate Code sections 2340, 2341, and 2850 or are exempt from registration under section 2854; or are seeking appointment on an emergency basis despite their failure to register (Prob. Code, § 2853), would give these reasons as their explanation in response to item 17.

The *Petition for Appointment of Guardian of Minor*, form GC-210, makes no allegations concerning a proposed guardian's status as a private professional guardian. Unless and until that form is revised, the screening form, if modified as proposed, would provide the court with the only direct evidence on these points from the proposed guardian.

Identical items, numbered as items 17 and 18, would also be added to page 2 of form GC-314. A new item 5 would also be added on page 1 of that form that would ask the proposed conservator if he or she is or was formerly the domestic partner of the proposed conservatee. If the proposed conservator is currently the proposed conservatee's domestic partner, this item would inquire whether he or she intends to terminate the partnership.

The advisory committee proposes to add these items to the conservatorship screening form although the current *Petition for Appointment of Probate Conservator*, form GC-310, also makes some of these allegations.³ If a proposed conservator is not a petitioner, the conservatorship screening form is the only place where he or she

³ Form GC-310 currently alleges a proposed conservator's status as a current or former domestic partner of the proposed conservatee and as a private professional conservator who has filed an information statement with the court (form GC-310, items 3c(3), 3c(5), and 7). The conservatorship petition does not, however, allege facts concerning a proposed conservator's registration with the Department of Justice. A pending revision of form GC-310 that would be effective on January 1, 2006 would add this allegation to that form.

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would be required to provide the relevant information under oath before the court hearing.

Other proposed changes in both forms are as follows:

1. Probate Code section 2104 authorizes the appointment of a California nonprofit corporation as a guardian or conservator if certain conditions specified in the statute are met. New items 18 of form GC-212 and 19 of form GC-314 would ask the responsible officer of such a corporation to provide evidence that would establish the corporation's qualifications for appointment as guardian or conservator under section 2104.
2. The bold text in the first text box at the top of page 1 of each form would be revised to advise that the proposed guardian or conservator is responsible for completing and signing the form, and that the *person requesting appointment of the fiduciary* must submit the completed form to the court with his or her petition. This modification would clarify responsibilities for completing and submitting these forms to the court in cases where the proposed guardian or conservator is not a petitioner;
3. The text in the second text box at the top of page 1 of each form would be revised to speak in the third person, directed at the proposed guardian or conservator rather than "you," also to address the situation where the petitioner and the proposed guardian or conservator are not the same person.

Copies of the revised and existing screening forms are attached at the pages indicated:

1. Revised form GC-212, at pages 4–5;
2. Existing form GC-212, at pages 6–7;
3. Revised form GC-314, at pages 8–9; and
4. Existing form GC-314, at pages 10–11.

Attachments

CONFIDENTIAL (DO NOT ATTACH TO PETITION)

GC-212

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY DRAFT 1 09/10/04 Not Approved by the Judicial Council
TELEPHONE NO.:	FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
GUARDIANSHIP OF (Name):		MINOR
CONFIDENTIAL GUARDIAN SCREENING FORM Guardianship of <input type="checkbox"/> Person <input type="checkbox"/> Estate		CASE NUMBER:

The proposed guardian must complete and sign this form. The person requesting appointment of a guardian must submit the completed and signed form to the court with the guardianship petition.
This form must remain confidential.

How This Form Will Be Used

This form is **confidential** and will not be a part of the public file in this case. Each proposed guardian must complete and sign a separate copy of this form under rule 7.1001 of the California Rules of Court. The information provided will be used by the court and by persons and agencies designated by the court to assist the court in determining whether to appoint the proposed guardian as guardian. The proposed guardian **must** respond to each item.

1. a. **Proposed guardian (name):**
 b. Date of birth:
 c. Social security number: d. Driver's license number: State:
 e. Telephone numbers: Home: Work: Other:
2. ☐ I am ☐ I am not required to register as a sex offender under California Penal Code section 290.
 (If you checked "I am," explain in Attachment 2.)
3. ☐ I have ☐ I have not been charged with, arrested for, or convicted of a crime deemed to be a felony or a misdemeanor. (If you checked "I have," explain in Attachment 3.)
☐ (Check here if you have been arrested for drug or alcohol-related offenses.)
4. ☐ I have ☐ I have not had a restraining order or protective order filed against me in the last 10 years.
 (If you checked "I have," explain in Attachment 4.)
5. ☐ I am ☐ I am not receiving services from a psychiatrist, psychologist, or therapist for a mental health-related issue.
 (If you checked "I am," explain in Attachment 5.)
6. Do you or any other person living in your home have a social worker or parole or probation officer assigned to him or her?
☐ Yes ☐ No (If you checked "Yes," explain in Attachment 6 and provide the name and address of each social worker, parole officer, or probation officer.)
7. Have you or any other person living in your home been charged with, arrested for, or convicted of any form of child abuse, neglect, or molestation? ☐ Yes ☐ No (If you checked "Yes," explain in Attachment 7.)
8. ☐ I am ☐ I am not aware of any reports alleging any form of child abuse, neglect, or molestation made to any agency charged with protecting children (e.g., Child Protective Services) or any other law enforcement agency regarding me or any other person living in my home.
 (If you checked "I am," explain in Attachment 8 and provide the name and address of each agency.)
9. Have you or any other person living in your home habitually used any illegal substances or abused alcohol?
☐ Yes ☐ No (If you checked "Yes," explain in Attachment 9.)

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CONFIDENTIAL

GUARDIANSHIP OF (Name): <div style="text-align: right;">MINOR</div>	CASE NUMBER:
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10. Have you or any other person living in your home been charged with, arrested for, or convicted of a crime involving illegal substances or alcohol?
☐ Yes ☐ No (If you checked "Yes," explain in Attachment 10.)
11. Do you or does any other person living in your home suffer from mental illness?
☐ Yes ☐ No (If you checked "Yes," explain in Attachment 11.)
12. Do you suffer from any physical disability that would impair your ability to perform the duties of guardian?
☐ Yes ☐ No (If you checked "Yes," explain in Attachment 12.)
13. ☐ I have or may have ☐ I do not have an adverse interest that the court may consider to be a risk to, or to have an effect on, my ability to faithfully perform the duties of guardian.
(If you checked "I have or may have," explain in Attachment 13.)
14. ☐ I have ☐ I have not previously been appointed guardian, conservator, executor, or fiduciary in another proceeding.
(If you checked "I have," explain in Attachment 14.)
15. ☐ I have ☐ I have not been removed as guardian, conservator, executor, or fiduciary in any other proceeding.
(If you checked "I have," explain in Attachment 15.)
16. ☐ I am ☐ I am not a private professional guardian, as defined in Probate Code section 2341.
☐ I have ☐ I have not filed with the court the information statement required by Probate Code section 2342. (If you checked "I am" and "I have not," explain in Attachment 16.)
17. ☐ I am ☐ I am not currently registered with the Statewide Registry of Private Conservators and Guardians maintained by the California Department of Justice under Probate Code sections 2850–2855.
My current registration will expire on (date):
(If you checked "I am not," explain why you are not registered in Attachment 17.)
18. ☐ I am ☐ I am not a responsible corporate officer authorized to act for (name of corporation):

a California nonprofit charitable corporation that meets the requirements for appointment as guardian of the proposed ward under Probate Code section 2104. I certify that the corporation's Articles of Incorporation specifically authorize it to accept appointments as guardian. (If you checked "I am," explain the circumstances of the corporation's care, counseling, or financial assistance to the proposed ward in Attachment 18.)
19. ☐ I have ☐ I have not filed for bankruptcy protection within the last 10 years.
(If you checked "I have," explain in Attachment 19.)

MINORS' CONTACT INFORMATION

20. Minor's name: School (name):
Home telephone: School telephone: Other telephone:
21. Minor's name: School (name):
Home telephone: School telephone: Other telephone:
22. Minor's name: School (name):
Home telephone: School telephone: Other telephone:
- ☐ Information on additional minors is attached.

DECLARATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PROPOSED GUARDIAN)



(SIGNATURE OF PROPOSED GUARDIAN*)

* Each proposed guardian must fill out and file a separate screening form.

CONFIDENTIAL (DO NOT ATTACH TO PETITION)

GC-212

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
GUARDIANSHIP OF (Name): _____ MINOR	
CONFIDENTIAL GUARDIAN SCREENING FORM Guardianship of <input type="checkbox"/> Person <input type="checkbox"/> Estate	CASE NUMBER: _____

Each proposed guardian shall submit this screening form with the guardianship petition.
This form shall remain confidential.

How This Form Will Be Used

This form is **confidential** and will not be a part of the public file in this case. You are required to complete and submit this form to the court under rule 7.1001 of the California Rules of Court. The information you provide will be used by the court and by persons and agencies designated by the court to assist the court in determining whether to appoint you as guardian. You **must** provide a response to each item.

1. a. **Proposed guardian (name):**
 b. Date of birth: _____
 c. Social security number: _____
 d. Driver's license number: _____ State: _____
 e. Telephone numbers: Home: _____ Work: _____ Other: _____

2. ☐ I am ☐ I am not required to register as a sex offender under California Penal Code section 290. (If you are, explain in Attachment 2.)

3. ☐ I have ☐ I have not been charged with, arrested for, or convicted of a crime deemed to be a felony or a misdemeanor. (If you have, explain in Attachment 3.) ☐ Check here if you have been arrested for drug or alcohol-related offenses.

4. ☐ I have ☐ I have not had a restraining order or protective order filed against me in the last 10 years. (If you have, explain in Attachment 4.)

5. ☐ I am ☐ I am not receiving services from a psychiatrist, psychologist, or therapist for a mental health-related issues. (If you are, explain in Attachment 5.)

6. Do you or does any other person living in your home have a social worker or parole or probation officer assigned to him or her?
☐ Yes ☐ No (If yes, explain in Attachment 6 and provide the name and address of each social worker, parole officer, or probation officer.)

7. Have you or has any other person living in your home been charged with, arrested for, or convicted of any form of child abuse, neglect, or molestation?
☐ Yes ☐ No (If yes, explain in Attachment 7.)

8. Are you aware of any reports alleging any form of child abuse, neglect, or molestation made to any agency charged with protecting children (e.g., Child Protective Services) or any other law enforcement agency regarding you or any other person living in your home?
☐ Yes ☐ No (If yes, explain in Attachment 8 and provide the name and address of each agency.)

(Continued on reverse)

CONFIDENTIAL

GUARDIANSHIP OF (Name):	CASE NUMBER:
MINOR	

9. Have you or has any other person living in your home habitually used any illegal substances or abused alcohol?
☐ Yes ☐ No (If yes, explain in Attachment 9.)
10. Have you or has any other person living in your home been charged with, arrested for, or convicted of a crime involving illegal substances or alcohol?
☐ Yes ☐ No (If yes, explain in Attachment 10.)
11. Do you or does any other person living in your home suffer from mental illness?
☐ Yes ☐ No (If yes, explain in Attachment 11.)
12. Do you suffer from any physical disability that would impair your ability to perform the duties of guardian?
☐ Yes ☐ No (If yes, explain in Attachment 12.)
13. ☐ I have or may have ☐ I do not have an adverse interest that the court may consider to be a risk to, or to have an effect on, my ability to faithfully perform the duties of guardian. (If you have or may have, explain in Attachment 13.)
14. ☐ I have ☐ I have not previously been appointed guardian, conservator, executor, or fiduciary in another proceeding. (If you have, explain in Attachment 14.)
15. ☐ I have ☐ I have not been removed as guardian, conservator, executor, or fiduciary in any other case. (If you have, explain in Attachment 15.)
16. ☐ I have ☐ I have not filed for bankruptcy protection within the last 10 years. (If you have, explain in Attachment 16.)

MINORS' CONTACT INFORMATION

- | | | |
|-------------------|--------------|-------------|
| 17. Minor's name: | School: | |
| Home tel.: | School tel.: | Other tel.: |
| 18. Minor's name: | School: | |
| Home tel.: | School tel.: | Other tel.: |
| 19. Minor's name: | School: | |
| Home tel.: | School tel.: | Other tel.: |
- ☐ Information on additional minors is attached.

DECLARATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PROPOSED GUARDIAN*)

*Each proposed guardian must fill out and file a separate screening form.

GC-314

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CONFIDENTIAL

CONSERVATORSHIP OF (Name): 	CASE NUMBER:
PROPOSED CONSERVATEE	

7. ☐ I have ☐ I have not filed for bankruptcy protection within the last 10 years. (If you checked "I have," explain in Attachment 7.)
8. ☐ I have ☐ I have not been convicted of a felony or had a felony expunged from my record. (If you checked "I have," explain in Attachment 8.)
9. ☐ I have ☐ I have not been charged with, arrested for, or convicted of embezzlement, theft, or any other crime involving the taking of property. (If you checked "I have," explain in Attachment 9.)
10. ☐ I have ☐ I have not been charged with, arrested for, or convicted of, a crime involving fraud, conspiracy, or misrepresentation of information. (If you checked "I have," explain in Attachment 10.)
11. ☐ I have ☐ I have not been charged with, arrested for, or convicted of any form of elder abuse or neglect. (If you checked "I have," explain in Attachment 11.)
12. ☐ I have ☐ I have not had a restraining order or protective order filed against me in the last 10 years. (If you checked "I have," explain in Attachment 12.)
13. ☐ I am ☐ I am not required to register as a sex offender under California Penal Code section 290. (If you checked "I am," explain in Attachment 13.)
14. ☐ I have ☐ I have not previously been appointed conservator, executor, or fiduciary in another proceeding. (If you checked "I have," explain in Attachment 14.)
15. ☐ I have ☐ I have not been removed or resigned as a conservator, guardian, executor, or fiduciary in any other case. (If you checked "I have," explain in Attachment 15.)
16. ☐ I have or may have ☐ I do not have an adverse interest that the court may consider to be a risk to, or to have an effect on, my ability to faithfully perform the duties of conservator. (If you checked "I have or may have," explain in Attachment 16.)
17. ☐ I am ☐ I am not a private professional conservator, as defined in Probate Code section 2341. ☐ I have ☐ I have not filed with the court the information statement required by Probate Code section 2342. (If you checked "I am" and "I have not," explain in Attachment 17.)
18. ☐ I am ☐ I am not currently registered with the Statewide Registry of Private Conservators and Guardians maintained by the California Department of Justice under Probate Code sections 2850–2855. My current registration will expire on (date): (If you checked "I am not," explain why you are not registered in Attachment 18.)
19. ☐ I am ☐ I am not a responsible corporate officer authorized to act for (name of corporation): , a California nonprofit charitable corporation that meets the requirements for appointment as conservator of the proposed conservatee under Probate Code section 2104. I certify that the corporation's Articles of Incorporation specifically authorize it to accept appointments as conservator. (If you checked "I am," explain the circumstances of the corporation's care, counseling, or financial assistance to the proposed conservatee in Attachment 19.)
20. Do you or does any other person living in your home have a social worker or parole or probation officer assigned to him or her?
☐ Yes ☐ No (If you checked "Yes," explain in Attachment 20 and provide the name, address, and telephone number of each social worker, parole officer, or probation officer.)

DECLARATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PROPOSED CONSERVATOR)

(SIGNATURE OF PROPOSED CONSERVATOR*)

*Each proposed conservator must fill out and file a separate screening form.

CONFIDENTIAL

CONSERVATORSHIP OF (Name): _____	PROPOSED CONSERVATEE	CASE NUMBER: _____
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9. ☐ I have ☐ I have not been charged with, arrested for, or convicted of, a crime involving fraud, conspiracy, or misrepresentation of information. *(If you have, explain in Attachment 9.)*
10. ☐ I have ☐ I have not been charged with, arrested for, or convicted of any form of elder abuse or neglect. *(If you have, explain in Attachment 10.)*
11. ☐ I have ☐ I have not had a restraining order or protective order filed against me in the last 10 years. *(If you have, explain in Attachment 11.)*
12. ☐ I am ☐ I am not required to register as a sex offender under California Penal Code section 290. *(If you have, explain in Attachment 12.)*
13. ☐ I have ☐ I have not previously been appointed conservator, executor, or fiduciary in another proceeding. *(If you have, explain in Attachment 13.)*
14. ☐ I have ☐ I have not been removed or asked to resign as a conservator, guardian, executor, or fiduciary in any other case. *(If you have, explain in Attachment 14.)*
15. ☐ I have or may have ☐ I do not have an adverse interest that the court may consider to be a risk to, or to have an effect on, my ability to faithfully perform the duties of conservator. *(If you have or may have, explain in Attachment 15.)*
16. Do you or does any other person living in your home have a social worker or parole or probation officer assigned to him or her?
☐ Yes ☐ No *(If yes, explain in Attachment 16 and provide the name and address of each social worker, parole officer, or probation officer.)*

DECLARATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PROPOSED CONSERVATOR*)

*Each proposed conservator must fill out and file a separate screening form.